

SENATE BILL REPORT

SB 5026

As Reported by Senate Committee On:
Human Services & Corrections, February 20, 2009

Title: An act relating to the collection of biological samples for DNA identification analysis.

Brief Description: Expanding provisions relating to the collection of biological samples for DNA identification analysis.

Sponsors: Senators Regala and Brandland.

Brief History:

Committee Activity: Human Services & Corrections: 1/30/09, 2/20/09 [DPS, DNP].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5026 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell and McAuliffe.

Minority Report: Do not pass.

Signed by Senator Kauffman.

Staff: Shani Bauer (786-7468)

Background: The Washington State Patrol (WSP) operates and maintains a deoxyribonucleic acid (DNA) database. The purpose of the database is to help with criminal investigations and to identify human remains or missing persons. County and city jails are responsible for collecting biological samples for DNA analysis from offenders incarcerated in their facilities. The Department of Corrections and the Department of Social and Health Services are responsible for collecting biological samples for DNA analysis from offenders incarcerated in their facilities. Local police and sheriff's departments are responsible for collecting biological samples for DNA analysis from offenders who do not serve any term of incarceration.

Biological samples must be collected from any person convicted of a felony, any person who is required to register as a sex or kidnapping offender, or any person convicted of one of the following misdemeanors or gross misdemeanors:

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- assault in the fourth degree with sexual motivation;
- communication with a minor for immoral purposes;
- custodial sexual misconduct in the second degree;
- failure to register;
- harassment;
- patronizing a prostitute;
- sexual misconduct with a minor in the second degree;
- stalking; and
- violation of a sexual assault protection order granted under chapter 7.90 RCW.

The Director of the Forensic Laboratory Services Bureau of the WSP is required to test the biological samples for inclusion in the DNA database.

Summary of Bill (Recommended Substitute): A person who is convicted of an offense that does not require a biological sample to be collected must still provide a biological sample if the conviction is the result of a plea agreement and the original charge was one for which a biological sample is required. The court must have found probable cause for the original charge.

An erroneous statutory reference is corrected.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute): The title is amended to refer specifically to individuals who have entered into plea agreements.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This is probably not a large volume of cases, but situations occur where a person pleads to a lesser offense than would require them to provide a DNA sample. Probably the most frequent example is a person who is charged with an assault 2 or attempted rape and pleads down to an assault 4. Quite often there are other crimes included in a sexual assault that do not have a sexual component. This would ensure that the person gets into the system even if that person isn't ultimately convicted of a crime that would require collection of his or her DNA.

Persons Testifying: PRO: Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs; Tom McBride, Washington Association of Prosecuting Attorneys.